

May 28, 2021

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO Division

FILED

JUN 17 2021

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature] DEPUTY CLERK

JAN ABRAHAM NEL
Plaintiff.

VS.

Cause NO:

- 1) EL PASO Police Department
- 2) TEXAS DEPARTMENT OF
PUBLIC SAFETY
- 3) FBI DIRECTOR

EP-20-242-FM

EP-20-244-FM

EP-20-248-FM.

ALSO VS.

U.S. Attorney General

MR. M. Garland

U.S. FBI Director

MR. C. Wray.

DEFENDENTS.

Motion for Judgement and Order
on pending pleadings.

Comes now, The Plaintiff, Jan Abraham Nel, Pro se, at this action Requesting that this Honorable Court enter a final Judgement and Order on all pending pleadings in these cases.

1.
The Petitioner, Jan Abraham Nel, would

-2-

respectfully ask this HONORABLE Court to hold and Consider this and all other pleadings and submission he presents for Consideration in this action to be construed and considered under the supress established by and pursuant to Heines vs. Kerner 404 U.S. 519, 30 L. ED. 2d 652, 92 S Ct 594 (1972) wherein it is stated by the Justices in Part:- "Pro Se Litigants pleadings are to be construed liberally, granted great Latitude and held to a less ~~stringent~~ stringent standard than that of Formal pleadings drafted by attorneys and it is in the interest of Justice to do so." The Justices went on to opine, "If the Court can reasonably read the pleadings to state a valid claim on which the litigant could prevail and the Judge can see what he is driving at that ought to be enough and it should do so despite the failure to cite proper legal authority, confusion of legal theories, poor syntax and sentence construction or to litigate or the litigants unfamiliarity with pleading requirements." The petitioner Jan Abraham Nel, Pro Se, herein requested such interpretations.

In support of said motion he had shown and the following and incorporates his previous motions and pleadings for inclusion with this request.

The Petitioner has shown to this HONORABLE

-3-

Court numerous times on Court record for more than 3 years and this Court has blatantly refuse to invoke Federal court rules Chapter 10. I the petitioner has shown the Pecos Division one year ago in a 28 USC 2241 all the evidence. The Pecos Division Court had send me a civil rights complaint under 42 USC 1983. This Court has blatantly Refuse to interpret my claims of FALSE PROSECUTION, vigorously to protect the corruption in El Paso County Texas by the standards stated by the justices for the interest of Justice.

- Attachement a is one of many motions this court has ignored when I have stated the grave conditions of the petitioners mental injuries. This Court has took my life, liberty and happiness and family and mentally anguish me to the point to pay THE ULTIMATE SACRIFICE BY DEATH for the interest of Justice. This Court through their actions has made me to belief that DEATH is the ONLY remedy for Justice. See Attachement A: Also This Court MUST subpoena my mental health doctor with a valid PHD in psychology Dr. GACE Minchew she could clearly understood my motions and she could clearly see what I'm driving at. This is the reasons WE belief this Honorable Court is SYSTEMICLY in Deniel for the purpose of Justice to cover up the biggest fraud against a Foreign National to protect their own fall from graz.

-4-

- Status or other exertions of government power that lack rational basis in sense of some connection of public interest are held to violate due process even if there is no procedural irregularity, so that, if they deprive someone from life, liberty, and or property they give rise to claim under the due process of law cause. 14th Amendment due process vol. 2, page 291. *Cumby vs. San Clair County C.A.T. (wis)* 1993, 5F. 3d. On July 5, 2018 document 79 Case No: 3:17-CR-2152-DB-V) I filed a motion to withdraw from counsel from the 2nd appointed attorney who refuse to defend the defendant in Federal Court. During that same time I also filed a "Book of Evidence" who is now or than a Sealed document. The Court should never sealed the documents but invoke the Federal Court Rules chapter 10. It's the Court who violate my rights to protect the actors of the Government who indorse malicious prosecution practices. For these reasons this suits must and should be granted in my favor because I'm intitled to relief and for the purpose and interest of Justice and public trust.
- Jan Abraham Nel, Pro Se, Petitioner has shown this Honorable Court numerous times the duress and coercion and threats against his Life a death penalty 35 years of false imprisonment, duress to protest the Hunger strike of over 100 days. (see U.S.

- 5 -

marshal file and U.S.M. agent Ortega) I refuse to go to Court August 7, 2019 (see U.S. MARSHAL FILE) Also see Court Record recorded August 7, 2019. Notably and clearly as in brought day light this Court was involved in a corruption cover up on the back of a Foreign National an Immigrant from Namibia with unequivocal moral values and ethical standards. For these reasons and for the interest of Justice, public trust and for the Democracy of the USA these petitions must ~~be~~ be HONORED and Granted to the petitioner.

- The interpretation of Heins vs. Kerner was violate by this Court on April 27, 2016 8:05pm and continue on April 29, 2021 - Memorandum Opinion and Order. I, Jan Abraham Nel want to make this comparison to illustrate the ~~obvious~~ obvious, deliberate and intentional refusal interpretation of such a very common case Law. (USA. vs. Mann 493 F.3d 484, 498 - 5th Cir 2007, The failure to follow an applicable statute is always an abuse of discretion. USA. vs. Delgado-Nunez, 295 F.3d. 494, 496 - 5th Cir 2002, Abuse of discretion review of purely legal question - is effectively de novo because a district court by definition abuses its discretion when it makes an error of Law.) My comparison:- I spoke to countless Sheriff's Officers during my time in El Paso County Jail. They understand clearly false prosecution. Their reaction "It's incredible who the Feds can destroy lives on

daily basis and we booked them here in this Jail." My point is they understand "The Judge can see what he is driving at that ought to be enough..." Without telling them about Hains vs. Kerner. 2). During the approx 14 months at Otero County Prison Facility (OCPF) I spoke to many, just about every Correctional Officer (CO) during my hunger strike why I'm on a hunger strike about the incredible abuse of power and they ~~can~~ could clearly get it why, also the nurses, I spoke to the sergeant (ser), Lieutenant (Lt), Captain, Deputy Warden Moreno and Warden Martinez and even the liberian and they all from a Geo up could clearly get it without telling them about Haines vs. Kerner. 3). Then I came to Reeves County Detention Center 3 (RCDC3) and the same thing but I also talk to the Pecos Mayor Mr. David Flores and his reaction was "They put the thanks to you", The warden, deputy warden, Sis Rodriguez and Sis Madrid and CO's could clearly understood. 4). Then I met Dr. GALE MINCHEN with a valid PhD in psychology well she understood that but she also understood the mental and emotional anguish. 5). Maren Colleen Nel at the time of April 28, 2016 till March 21, 2017 and then from there ~~that~~ till October 29, 2019 and still today + for the next 70 + years would know that first hand and clearly remember the 3 most daunting bangs on the door. She understood that. 6). Nicole Dee Nel the same victim as the mother

-1-

a first Grade Teacher they all understand that. My point is what I'm driving at is; from a 12 year old, Sheriff deputies, W's, SRTs, Lt, Captains, Deputy wardens, wardens, a dr. with a phd in psychology, the Pecos Mayor, CRW. Furlong FBI agent, Daniel Fick FBI agent, Brandon Speed TX DPS agent "We (All) know you have done nothing wrong We (all) know you are not capable... FBI interview December 15, 2017," JES agent, US Marshall agents 3 (2 who took me to Nevada) and agent Ortega, they all get's it. Two State Judges and state magistrates and Federal Magistrate Judge and two Federal Judges don't get it. In the 51 months ^{in prison,} I learn to speak fluent Spanish and now a third language, I'm very sure in the same time these Judges could find me the same statutes to protect me from such a cominest style prosecution against every constitutional right, every ~~cit~~ civil right and Human rights.

For the refusal of such interpretation (Haines vs. Kerner) these civil rights complaints must be granted in the favor of the petitioner.

Knowledge:- The courts states the standard of required knowledge in two cryptic phrases:- 1). "Settled undisputed Law" and 2). unquestionable constitutional rights

Knowingly:- in such a manner that the actor engage in prohibited conduct with the knowledge that the social harm, that the law was designed to prevent practically certain results, deliberately. ~~How~~ Knowingly describes to the

mental state resulting in the second highest level of criminal culpability. (Black Law Dictionary 10th edition).

Malicious prosecution :- A. The institution of a criminal or civil proceeding for an improper use and without probable cause. The Tort requires an advisory to prove 4 elements. 1) The initiation OR continuation of a law suit. (1) 16 felonies 19 days after civil suit against former U.S. Government agent Michael Wayne Creek. (2) First ~~State~~ local then State then Federal criminal charges. (3) All El Paso County Texas (4) All Courts, Judges, prosecutors ignore and conceal Chapter 10 of Federal Court Rules. (5) Continuation of a corruption coverup (6) Denial goes behind comensence.) 2) Lack of probable cause. (false search and seizer warrant affidavit with false probable cause) 3. malice. (false charges, false statements, false incarceration, fake separation of a loving family) 4) favorable termination of the law suits resentments of torts. (Memorandum Opinion and Order - April 29, 2021 favor the actors). Section 5, 674, 681 B (1977) B. Tort claim resulting from the institution of such a proceeding. Once a wrongfull prosecution ended in the defendants favor he or she may sue for tort damages - malicious use of the process. Malicious Prosecution or wrongfull litigation Section 5, 23-24 Malicious prosecution of criminal proceedings "52 Am. Jur. 2d. and malicious prosecution Section 2, at 187 (1970) Blacks Law dictionary 10th edition.

U. S. Federal Court, the statutes of limitations

-9-

start to run when the claim "accrues" when the plaintiff knows or has reason to know of the injury upon which the action is based. If the injury takes place over a period of time (a continuing wrong) (April 28, 2016 - March 21, 2017 - March 24, 2017 - October 25, 2017 - October 31, 2017 - December 15, 2017 - December 18, 2017 - July 5, 2018 - February 28, 2019 - August 7, 2019 - October 29, 2019 - May 2020 - April 29, 2021) (a clear pattern of continuous wrongs). The statute may not untill the end of the period. Statute:- Page vs. USA 729 F.2d 818, 821 and n 23 (D.C. Cir. 1984) and statute:- Chapter 10 of Federal Court rules. (compensatory damages are not discretionary; if you do prove that a violation of your rights caused injury, damages must be awarded. Statute:- H.C. by Hewitt vs. Jarrard 786 F.2d 1080, 1088 (11th Cir 1986)

However you must show that the defendants acted with reckless indifference to your rights, ill will, a desire to injure, or malice. (EP-16-1661-MAT; 2016000-2824-210; 2016000--- tempering with governmental records; 2017-0002200-210; EP-17-CR-2152-DB-1; PE:20-CV-48-DC; PE:20-CV-56-DC; EP-20-CV-242-(MAT)FM; EP-20-CV-248-(MAT)FM; EP-20-CV-249-(MAT)FM; EP-21-consolidate civil rights claim.) Statute:- Smith vs. Wade, 461 U.S. at 46-52; and Statute:- Hill vs. Marshall, 962 F.2d 1209, 1217 (6th Cir. 1992)

Statute

Preliminary Injunction and TRO's

You will suffer "irreparable injury" without a injunction. Most courts hold that a showing that

-10-

your Constitutional Rights are likely to be violated is enough to meet the irreparable injury requirements.

You will suffer more without an injunction than prison staff officials will suffer if the injunction is granted. This is called the "Balance of hardship"

It is in the public's interest to grant the injunction. Your argument will generally be that it is always in the public's interest FOR government officials to OBEY the constitutional Laws. Statue:- Washington vs. Reno, 35 F.3d 1093, 1103 (6th Cir. 1994); ILQ Investments, Inc. vs. City of Rochester, 816 F. Supp 516, 527 (D. Minn 1993) "Upholding constitutional rights is in the interest of the public, rev'd on other grounds, 25 F. 3d 1413 (8th Cir. 1994)

USA. Today, April 27, 2021. MR. Murrick Garland said "We will follow the Facts and the Law". The Department of Justice move swiftly to reinstate Federal oversight of Police Departments after it languished during Trump administration. By: Kristene Philips. Writ of Habe Judgements.

"The familiar record materials commonly relied upon and requires that the movant cite the particular parts of the materials that support its facts positions. Materials that are not yet in the record - including materials referred to in an affidavit or declaration - must be placed in the record. Once the materials are placed in the record, the court may, by order in the case, direct that the materials be gathered in a

- 11 -

appendix."

During the past 6 1/2 months since this retaliated and utterly false prosecution started. This Honorable Court, El Paso Division started this on April 28, 2016 - April 27, 2016 - 8:05 pm. During the time time March 21, 2017 when the separation of our loving family started (please ~~and~~ see exhibit B, RE: Divorce Matter - Nicole Dee Nel vs. Jan A. Nel Case no: 2020scm4678/388th District Court) is the undeniable evidence of injury caused by this retaliated and false prosecution. For one I have learn to speak a 3rd language also I have learn the due process of Law. I have learned that Law is separated by 2 cryptophrases. 1) Technical errors 2) FACTS. The facts = the Law and when the ~~E~~ evidence/Facts/Law is undisputable and undeniable facts of Law the opposition attack the technical errors. (Nel vs. Cote case no: PE: 20-CV-48-DC) The facts was so overwhelmingly ~~by~~ but never denied the facts only on Lewis. No court in the USA denied the facts I brought forward. This Honorable Court cause no: EP-17-CR-2152-DB conceal the evidence July 2018 and also conceal chapter 10 of Federal Court Rules, and continued the false prosecution under the color of Law and due process of the 14th Amendment. El Paso Division, county and District outlaw the truth and embrace and adore corruption which makes Namibia looks better than a first world country and the USA more like a 4th or 5th world country.

-12-

For this HONORABLE COURT to under estimate my intelligence and under mine my integrity is down right disrespectful to devalue my life as such. Our lives is no less worth than George Floyd or Mr. Green who was murdered by Louisiana State police or for what ever matter any thing less than any body else. The truth is unalterable, unchangeable, its changeless and immutable and the evidence ~~is~~ has the exact same characteristics of unalterable, unchangeable, undebatable, changeless and undeniaceable. The Law has a sharp distinction between the right use and abuse of the Law. Two wrongs must not be faunted to make it wrong. (See motion:- Notice to correct the record and for the interpretation of Heines vs. Kerner filed May 27, 2021 page 38 My affidavit of Truth Again, and page 39). I, the petitioner, Jan Abraham Nel Humbly ask this HONORABLE COURT not to protect these actors and not to get involved in the corruption, to honorably to follow the facts and the law. These actors has knowingly with knowledge created there destiny through there actions and now is the time for the goods to be delivered what they has ordered it has manifested - destruction. This outcome was predictable.

The destructive power of value Judging.

Dr. Robert Anthony explains in his statement of value Judging as follows: "The basic cause of most inharmonious human relationships is the tendency to impose our values

-13-

on other people. We want them to live by what we have decided is right, fair, good, bad etc. If they do not conform we become resentful and angry. There is nothing we can do to alter other people's values, concepts, or beliefs if their awareness is not ready to accept change. No one is obligated to change just to make the world a better place ~~to~~ for you to live in. People may disturb you or anger you, but the fact that not everyone objects to their behavior indicates that the problem is yours. You are resisting their reality and desiring to see things, not as they are, but as you would like them to be. This is the point at which you start value-judging. Nothing can destroy a relationship or break off communication faster than value-judging. If you wish to develop a positive self-esteem, it is imperative that you stop all value-judging. This starts with the right motivations: the motivations that all forms of value-judging are disastrous to your well-being. Just discontinuing verbalized value-judging is not sufficient. If you say one thing and think another, your words are meaningless for your thoughts are equally as powerful. The scriptures remind us that: "As a man thinketh in his heart so is he."

President Harry Truman said "The buck stops here." The buck stops with everyone of us. If you are a responsible person to take responsibility of your thoughts, and actions of your life and the ~~all~~ authority given to you like President Harry Truman. The principles of life is

-13-

a cause which is not only immutable, unchangeable, unalterable and changeless but once the cause is set in motion, the flow of events is powerfull and precise to produce the effect, sooner than anyone may expect. You are at cause through your thoughts and actions and you are the creating the effect for your destination. April 27, 2016 8:05 pm Cause June 2021 predictable effect. Many times in the past you have used this methods ~~to~~ of the principles of your path. You probably were completely oblivious of what you are creating but its a indefinite process and what is going on in your life is the evidence of the right use or misuse of the process in the past. Consider $2+2=4$ its a statement of truth and a fact you can say $2+2=5$ still you can't ~~say~~ change the truth or the fact. So is the principle "as you sow so shall you reap" its a unalterable condition of life it applies at all phases of life its unbreakable and unchangeable statements of truth.

Consider that with my sudden prosecution ($2+2=5$) 5 years ago ~~to~~ you sow and so shall you reap. We are all equal before these life principals and to use law (case laws) to say $2+2=5$ doesn't change the truth nor the court records.

Consider the statement of Dr. Robert Anthony The destructive power of value-judging. What is there what Jan Abraham Nel can say consider the above statements (December 15, 2017 late afternoon "We

know you have done nothing wrong, we know you are not capable of doing your own taxes and all these documents") That's a statement of truth. Their actions, words, statements and charges. They has set the principles of cause in motion and the effect is detrimental. "The laws of the Lord is perfect - that IF you follow therein. The Lord may use you. Jan Abraham Nel And through that we may come to you the desires of your heart. (3651-1-AR). You will face the results of what you have done to other people through your ~~thoughts~~ thoughts, words and deeds.

I have said before. On court record I may have 1500 pages hand written documents. I have ask for criminologists, ~~psy~~ psychiatrist, psychologist (Dr Gale Winchen), pattern behavior specialists and scientists to examine my hand writing to determine my past. Jan Abraham Nel Has no skeletons, scandals in the closet, I have excellent moral and ethical values and standards, I completely understand what I'm saying and seeing, I completely understand what happen from the beginning. I was suppose to just take it shut a hell up roll over and get deported and shut a hell up and go away. I did not, I will not. There is no soldier go to any army who is suicidal they fought for their countries freedom with their lives. I Jan Abraham Nel is not suicidal I did not join this freely

- 15 -

I declare in the name of the Holy Spirit of our God Lord and savior Jesus Christ, I'm not mocking God nor the USA. I Jan Abraham Nel will not stop fighting for Justice for not a country but only for one person. March Colleen Nel. Justice or Death or its Death and Justice either way I has transformed to eternity, I have cried on court record and has made peace with my creator, Jan Abraham Nel is ready for Justice and Death or Death and Justice. Its going to be both Death and Justice.

Conclusion

This HONORABLE COURT knowingly knows with required knowledge and experience what I'm driving at. I has shown much much more than required by Haines vs. Kerner Statute and I request a such interpretation from this HONORABLE COURT with all facts, facts, evidence and Law on Court recorded record, since April 27, 2016 at 8:05 pm to be examined with a fine come and no stone unturned. I also request from this HONORABLE COURT to favor this petitioner with all and every possible Statute and Law to this Courts dispose, and to consider all legal factors this HONORABLE COURT deems ~~me~~ necessary in the sought of Relief. Also to take into consideration his Lawfull and proper efforts.

Further more it is in the interest of Justice and in the interest of public trust also in the

interest of this USA Democracy, that the petitioner is entitled to a proper judgement as a proper matter of Law.

For this the petitioner forever prays.

Respectfully Submitted
By the petitioner, Pro Se
Dan Abraham Nel
June 3, 2021.

Certificate of Service.

1). Certificate of Service USPS #
U.S. District Court
U.S. Court House
Clerk of the Court
525 McGoffin Ave
Suite 105
EL PASO, TX 79901
USA.

2). Certified mail USPS # 7020 1290 0001 0598 3605
Department of Justice
U.S. Attorney General
Mr. Merrick Garland
950 Pennsylvania Ave N.W.
Washington, D.C. 20530 USA.

-17-

- 3) Certified mail usps # 7020 1290 0001 0598 3599
Federal Bureau of Investigations
U.S. FBI Director
Mr. Christopher Wray
935 Pennsylvania Ave. N.W.
Washington D.C. 20535
USA.
- 4) Via first class mail
Nicole Dee Nel
910 E. Redd Rd.
Ste. K. # 125
El Paso, TX 79912
USA.
- 5) Via first class mail
Manita Nel
13243 40th Ave
South Tukwila, WA 98168
USA.
- 6) Via first class mail.
KPJ News
1550 West J 20
Odessa, TX 79763
USA.

San Abraham Mel

USMS # 97310380

Reeves County

Detention Center 3

P.O. Box 2038

Pecos, TX 79772

USA

FILED

JUN 17 2021

**CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature] DEPUTY CLERK**

*To: Unis
Unite
Clerk
525
Suit
EL Pi
USA.*

Court Correspondence, mailing date June 7, 2021